



State of Wisconsin
2005 - 2006 LEGISLATURE

stays
↓
LRB-2506/2
MGG:wlj:jf

2005 BILL

Friday
a.m.

Regen

1 AN ACT ~~to amend~~ 23.33 (3) (c), 23.62 (2), 29.921 (5), 29.924 (1), 29.924 (2), 29.924
2 (3), 29.924 (4), 29.931 (1), 29.931 (2) (a), 29.931 (2) (b), 29.934 (1) (a), 29.934 (2)
3 and 350.10 (1) (f); and **to create** 23.86, 29.921 (4m), 814.75 (17m), 814.80 (13m)
4 and 943.13 (3m) of the statutes; **relating to:** the authority of the Department
5 of Natural Resources to enforce certain violations of the trespass law,
6 revocation of ~~fish and game~~ ^{hunting, fishing, and trapping} approvals or licenses and captive wildlife licenses
7 for certain violations of the trespass law, the imposition of a surcharge on a
8 forfeiture for certain violations of the trespass law, service outside the state of
9 forfeiture citations issued for violations of certain natural resources laws,
10 operation of snowmobiles and all-terrain vehicles on land without permission,
11 and providing a penalty.

Analysis by the Legislative Reference Bureau

Current law grants the Department of Natural Resources (DNR) and its wardens enforcement authority to enforce fish and game laws, laws relating to boating and snowmobiling, other conservation laws, and certain other laws relating to the use of dangerous weapons regardless of where the violations of any of these

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laws are committed. This bill expands this authority to cover violations of the land trespass law when the trespass is committed by a person engaged in an activity that involves hunting, fishing, trapping, cutting timber, snowmobiling, and other outdoor recreational or natural resources activities regulated by laws administered by DNR (natural resources activities). The bill authorizes the court to revoke any or all fish and game licenses or approvals or licenses authorizing the possession of captive wildlife for a period of ~~one year~~ *three years*.

The bill requires a court to impose a surcharge for a trespass violation that is committed by a person engaged in a natural resource activity. The surcharge imposed equals 35 percent of the amount of the forfeiture for the trespass violation. Under the bill, the surcharge is used for certain DNR enforcement activities.

The bill expands the prohibition under the laws regulating the operation of all-terrain vehicles and snowmobiles on land without the consent of the owner or lessee to include all land, not just private land.

Finally, the bill allows the service by mail of citations to persons outside the state for violations of certain natural resources laws.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 23.33 (3) (c) of the statutes is amended to read:

2 23.33 (3) (c) On the private property of another without the consent of the
3 owner or lessee. Failure to post ~~private~~ such property does not imply consent for
4 all-terrain vehicle use.

5 **SECTION 2.** 23.62 (2) of the statutes is amended to read:

6 23.62 (2) A citation may be issued or served anywhere in the state by delivering
7 a copy to the defendant personally or it shall be served by leaving a copy at the
8 defendant's usual place of abode with a person of discretion residing therein or by
9 mailing a copy to the defendant's last-known address. A citation may be issued or
10 served outside the state by mailing a copy to the defendant's last-known address.

11 It shall be issued or served by a law enforcement officer.

12 **SECTION 3.** 23.86 of the statutes is created to read:

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1 **23.86 Natural resources trespass surcharge. (1) LEVY OF NATURAL**
2 RESOURCES TRESPASS SURCHARGE. (a) If a court imposes a forfeiture for a violation of
3 s. 943.13 that a person commits while engaged in an activity regulated under this
4 chapter or ch. 26, 27, 28, 29, 169, or 350, the court shall impose a natural resources
5 trespass surcharge under ch. 814 equal to 35 percent of the amount of the forfeiture.

6 (b) If a forfeiture is suspended in whole or in part, the natural resources
7 trespass surcharge shall be reduced in proportion to the suspension.

8 (c) If any deposit is made for an offense to which this section applies, the person
9 making the deposit shall also deposit a sufficient amount to include the natural
10 resources trespass surcharge under this section. If the deposit is forfeited, the
11 amount of the natural resources trespass surcharge shall be transmitted to the
12 secretary of administration under par. (d). If the deposit is returned, the natural
13 resources trespass surcharge shall also be returned.

14 (d) The clerk of the court shall collect and transmit to the county treasurer the
15 natural resources trespass surcharge and other amounts required under s. 59.40 (2)
16 (m). The county treasurer shall then make payment to the secretary of
17 administration as provided in s. 59.25 (3) (f) 2. The secretary of administration shall
18 deposit the amount of the natural resources trespass surcharge into the conservation
19 fund.

20 **(2) USE OF NATURAL RESOURCES TRESPASS SURCHARGE FUNDS.** All moneys collected
21 from natural resources trespass surcharges shall be credited to the appropriation
22 under s. 20.370 (3) (mu).

23 **SECTION 4. 29.921 (4m) of the statutes is created to read:**

24 **29.921 (4m) TRESPASS.** The department and its wardens may execute and serve
25 warrants and processes issued for a violation of s. 943.13, if the violation was done

BILL**SECTION 4**

1 while the person was engaged in an activity regulated under this chapter or ch. 23,
2 26, 27, 28, 169, or 350, in the same manner as any constable may serve and execute
3 the process; and may arrest, with or without a warrant, any person detected in the
4 actual violation, or whom the warden has probable cause to believe is guilty of such
5 a violation, and may take the person before any court in the county where the
6 violation was committed and make a proper complaint. For the purpose of enforcing
7 any of the laws of this state, any warden may stop and board any boat and stop any
8 vehicle, if the warden reasonably suspects there is a violation of the law.

9 **SECTION 5.** 29.921 (5) of the statutes is amended to read:

10 29.921 (5) **ADDITIONAL ARREST POWERS.** In addition to the arrest powers under
11 ~~sub. subs.~~ (1) and (4m), a warden who has completed a program of law enforcement
12 training approved by the law enforcement standards board, has been certified as
13 qualified to be a law enforcement officer under s. 165.85 (4) (b) 1. and has complied
14 with any applicable requirements under s. 165.85 (4) (bn) 1. while on duty and in
15 uniform or on duty and upon display of proper credentials may assist another law
16 enforcement agency as defined under s. 165.83 (1) (b) including making an arrest at
17 the request of the agency, may arrest a person pursuant to an arrest warrant
18 concerning the commission of a felony or may arrest a person who has committed a
19 crime in the presence of the warden. If the warden makes an arrest without the
20 presence of another law enforcement agency, the warden shall cause the person
21 arrested to be delivered to the chief of police or sheriff in the jurisdiction where the
22 arrest is made, along with the documents and reports pertaining to the arrest. The
23 warden shall be available as a witness for the state. A warden may not conduct
24 investigations for violations of state law except as authorized in ss. 23.11 (4), 29.924
25 (1) and 41.41 (12). A warden acting under the authority of this subsection is

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1 considered an employee of the department and is subject to its direction, benefits and
2 legal protection. The authority granted in this section does not apply to county
3 conservation wardens or special conservation wardens.

4 **SECTION 6.** 29.924 (1) of the statutes is amended to read:

5 29.924 (1) INVESTIGATIONS. ~~The department and its wardens shall, upon~~ Upon
6 receiving notice or information of the violation of any of the laws cited in s. 29.921 (1), to
7 the department and its wardens have enforcement authority under s. 29.921 (1), to
8 (4m), the department and its wardens shall as soon as possible make a thorough
9 investigation and institute proceedings if the evidence warrants it.

10 **SECTION 7.** 29.924 (2) of the statutes is amended to read:

11 29.924 (2) DRIVING WITHOUT HEADLIGHTS. In the performance of their law
12 enforcement duties, wardens may operate motor vehicles owned or leased by the
13 department upon a highway, other than an interstate, a state trunk highway or any
14 highway within the limits of any incorporated area, during hours of darkness
15 without lighted headlamps, tail lamps or clearance lamps, contrary to s. 347.06, if
16 the driving will aid in the accomplishment of a lawful arrest for violation of ~~this~~
17 ~~chapter~~ any of the laws for which the department and its wardens have enforcement
18 authority under s. 29.921 (1) to (4m) or in ascertaining whether a violation of ~~this~~
19 ~~chapter~~ these laws has been or is about to be committed. Any civil action or
20 proceeding brought against any warden operating a motor vehicle under this
21 subsection is subject to ss. 893.82 and 895.46.

22 **SECTION 8.** 29.924 (3) of the statutes is amended to read:

23 29.924 (3) OPENING PACKAGES. The department and its wardens may examine
24 and open any package in the possession of a common carrier which they have
25 probable cause to believe contains wild animals, or carcasses, in violation of ~~this~~

BILL**SECTION 8**

1 ~~chapter, or carcasses, of any of the laws for which the department and its wardens~~
2 ~~have enforcement authority under s. 29.921 (1) to (4m), or is falsely labeled in~~
3 ~~violation of this chapter these laws.~~ Each common carrier and its agent or employee
4 shall permit the officer to examine and open the package. Any opened package shall
5 be restored to its original condition.

6 **SECTION 9.** 29.924 (4) of the statutes is amended to read:

7 29.924 (4) ACCESS TO STORAGE PLACES. The owner or occupant of any
8 cold-storage warehouse or building used for the storage or retention of wild animals,
9 or their carcasses, that are subject to regulation under ~~this chapter~~ any of the laws
10 for which the department and its wardens have enforcement authority under s.
11 29.921 (1) to (4m) shall permit the department and its wardens to enter and examine
12 the premises subject to s. 66.0119. The owner or occupant, or the agent or employee
13 of the owner or occupant, shall deliver to the officer any such wild animal or carcass,
14 in his or her possession during the closed season, whether taken within or without
15 the state

16 **SECTION 10.** 29.931 (1) of the statutes is amended to read:

17 29.931 (1) SEIZURE AND CONFISCATION OF WILD ANIMALS OR PLANTS. The
18 department and its wardens shall seize and confiscate any wild animal, carcass or
19 plant caught, killed, taken, had in possession or under control, sold or transported
20 in violation of ~~this chapter or ch. 169~~ any of the laws for which the department and
21 its wardens have enforcement authority under s. 29.921 (1) to (4m). The officer may,
22 with or without warrant, open, enter and examine all buildings, camps, boats on
23 inland or outlying waters, vehicles, valises, packages and other places where the
24 officer has probable cause to believe that wild animals, carcasses or plants, taken or
25 held in violation of ~~this chapter or ch. 169~~ these laws, are to be found.

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1 **SECTION 11.** 29.931 (2) (a) of the statutes is amended to read:

2 29.931 (2) (a) The department and its wardens shall seize and hold, subject to
3 the order of the court for the county in which the alleged offense was committed, any
4 vehicle, boat or object declared by this chapter to be a public nuisance, or which they
5 have probable cause to believe is being used in violation of ~~this chapter or ch. 169 or~~
6 ~~s. 167.31, 287.81, 940.24, 941.20, 948.60, 948.605 or 948.61, is being used in the~~
7 ~~commission of a crime involving an animal normally found in the wild in violation~~
8 ~~of s. 951.09, or is being used in the commission of a crime relating to a submerged~~
9 ~~cultural resource in violation of s. 44.47~~ any of the laws for which the department and
10 its wardens have enforcement authority under s. 29.921 (1) to (4m). If it is proven
11 that the vehicle, boat or object is a public nuisance or that within 6 months previous
12 to the seizure the vehicle, boat or object was used in violation of ~~this chapter or ch.~~
13 ~~169 or s. 167.31, 287.81, 940.24, 941.20, 948.60, 948.605 or 948.61, was used in the~~
14 ~~commission of a crime involving an animal normally found in the wild in violation~~
15 ~~of s. 951.09, or was used in the commission of a crime relating to a submerged cultural~~
16 ~~resource in violation of s. 44.47~~ any of the laws for which the department and its
17 wardens have enforcement authority under s. 29.921 (1) to (4m), it shall be
18 confiscated if the court directs in its order for judgment.

19 **SECTION 12.** 29.931 (2) (b) of the statutes is amended to read:

20 29.931 (2) (b) Any perishable property seized by the department or its wardens
21 under this section may be sold at the highest available price, and the proceeds of the
22 sale turned into court for disposition as the court directs.

23 **SECTION 13.** 29.934 (1) (a) of the statutes is amended to read:

24 29.934 (1) (a) All wild animals, carcasses ~~or~~ plants, vehicles, boats, or objects
25 that are not destroyed as authorized by law and that are confiscated by the

BILL**SECTION 13**

1 department for a violation of ~~this chapter or ch. 169~~ and all vehicles, boats or objects
2 confiscated by the department for a violation of this chapter or ch. 169 shall, if not
3 destroyed as authorized by law, any of the laws for which the department and its
4 wardens have enforcement authority under s. 29.921 (1) to (4m), shall be sold at the
5 highest price obtainable, except as provided in s. 29.936, by the department, or by
6 an agent on commission under supervision of the department. The net proceeds of
7 sales under this subsection, after deducting the expense of seizure and sale and any
8 commissions and any amounts owing to holders of security interests under par. (c)
9 or (d), shall be remitted to the department. The remittance shall be accompanied by
10 a report of the sales, supported by vouchers for expenses and commissions, and shall
11 be filed with the department.

12 **SECTION 14.** 29.934 (2) of the statutes is amended to read:

13 29.934 (2) On any sales under this section of wild animals or carcasses, the
14 department or the agent selling them shall issue to each purchaser a certificate, on
15 forms prepared and furnished by the department, covering the sales. The wild
16 animals or carcasses so purchased shall be consumed, resold, or otherwise disposed
17 of by the purchaser within a period to be set by the department, but may not be resold
18 or exchanged, in whole or in part, to any other person, except as provided in sub. (3)
19 or as authorized by the department.

20 **SECTION 15.** 350.10 (1) (f) of the statutes is amended to read:

21 350.10 (1) (f) On the ~~private~~ property of another without the consent of the
22 owner or lessee. Failure to post ~~private~~ such property does not imply consent for
23 snowmobile use. Any other motor-driven craft or vehicle principally manufactured
24 for off-highway use shall at all times have the consent of the owner before operation
25 of such craft or vehicle on ~~private~~ lands of another.

BILL

1 **SECTION 16.** 814.75 (17m) of the statutes is created to read:

2 814.75 (17m) The natural resources trespass surcharge.

3 **SECTION 17.** 814.80 (13m) of the statutes is created to read:

4 814.80 (13m) The natural resources trespass surcharge.

5 **SECTION 18.** 943.13 (3m) of the statutes is created to read:

6 943.13 (3m) If a person is convicted of a violation of this section while engaged

7 in an activity regulated under ch. 23, 26, 27, 28, 29, 169, or 350, the court may revoke

8 any or all approvals or licenses issued to the person under ch. 29 or 169. The person

9 convicted also may not be issued any approvals or licenses issued under ch. 29 or 169

10 for a period of ^{three years} ~~one year~~ after the conviction.

11 (END)

~~or~~ any or all
licenses issued
to the person
under chs 169

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2506/107 ^{2dm}
MGG:wlj:jf

~~March 28, 2005~~

current date

1. I am not sure the provisions under ss. 29.924, 29.931, and 29.934 achieve your intent. I tried to amend them to provide consistency for police powers, investigations, and searches, seizures, and sale of confiscated items. Please review carefully.
2. Note the "linkage" between the trespass surcharge and the use of moneys under s. 20.370 (3) (mu). Under s. 20.370 (3) (mu) no money is appropriated for enforcement operations for violation of laws under s. 23.33 or ch. 26, 27, or 29, but the trespass surcharge is imposed for violations of these provisions. *relating to*
3. Also, note the "linkage" in s. 943.13 (3m). A violation of any "natural resource activity" results in the possible revocation of ch. 29 approvals or ch. 169 licenses. OK?
4. I did not amend s. 29.011 (2) because there is a parallel provision in s. 169.02. If you want the scope of these two provisions broadened, a reference that is more specific that the "laws of this state" is preferable. Please call me to discuss any changes.
5. I also did not amend s. 23.50 (1) since there is a separate citation procedure solely for trespass violations under s. 778.26. ~~DN~~

Mary Gibson-Glass
Senior Legislative Attorney
Phone: (608) 267-3215

INS [✓] DN

~~to~~ ~~23.50~~

Regarding Section 29.291(1) has a cross reference to violations of ch. 951 which is

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2506/2dnIns

MGG:.....

Insert DN

cross 6. In this draft the references to violations of ch. 951 are handled by cross-reference. Section 29.921 (1), which is referenced in ss. 29.924 (1), (2), (3), and (4), 29.931 (1) and (2) (a), and 29.934 (1) (a) in turn contains a reference to s. 23.50. Section 23.50 includes a reference to ch. 951 if "the animal involved is captive wild animal". "Captive" and "wild animal" are defined for purposes of s. 23.50. See s. 23.51 (1d) and (9m). Therefore, the provisions under ss. 29.921, 29.924, 29.931, and 29.934, as amended in this draft, cover "captive wild animals" as defined in for purposes of s. 23.50 and cover any violation of ch. 951, not just s. 951.09. If you want any changes in this regard, please call me to discuss them.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2506/2dn
MGG:wlj:ch

April 1, 2005

1. I am not sure the provisions under ss. 29.924, 29.931, and 29.934 achieve your intent. I tried to amend them to provide consistency for police powers, investigations, and searches, seizures, and sale of confiscated items. Please review carefully.
2. Note the "linkage" between the trespass surcharge and the use of moneys under s. 20.370 (3) (mu). Under s. 20.370 (3) (mu) no money is appropriated for enforcement operations for violation of laws under s. 23.33 or ch. 26, 27, or 29, but the trespass surcharge is imposed for violations of these provisions.
3. Also, note the "linkage" in s. 943.13 (3m). A violation relating to any "natural resource activity" results in the possible revocation of ch. 29 approvals or ch. 169 licenses. OK?
4. I did not amend s. 29.011 (2) because there is a parallel provision in s. 169.02. If you want the scope of these two provisions broadened, a reference that is more specific than the "laws of this state" is preferable. Please call me to discuss any changes.
5. I also did not amend s. 23.50 (1) since there is a separate citation procedure solely for trespass violations under s. 778.26.
6. In this draft the references to violations of ch. 951 are handled by cross-reference. Section 29.921 (1), which is cross-referenced in ss. 29.924 (1), (2), (3), and (4), 29.931 (1) and (2) (a), and 29.934 (1) (a) in turn contains a cross-reference to s. 23.50. Section 23.50 includes a cross-reference to ch. 951 if "the animal involved is captive wild animal." "Captive" and "wild animal" are defined for purposes of s. 23.50. See s. 23.51 (1d) and (9m). Therefore, the provisions under ss. 29.921, 29.924, 29.931, and 29.934, as amended in this draft, cover "captive wild animals" as defined for purposes of s. 23.50 and cover any violation of ch. 951, not just s. 951.09. If you want any changes in this regard, please call me to discuss them.

Mary Gibson-Glass
Senior Legislative Attorney
Phone: (608) 267-3215

Gibson-Glass, Mary

From: Van Haren, Thomas
Sent: Monday, April 04, 2005 1:30 PM
To: Gibson-Glass, Mary
Subject: LRB - 2506/2dn - Warden Trespass Authority

Hi Mary,

I received a copy of the LRB - 2506/2dn which you drafted and your drafter's note. We concur with your changes in relation to items 1, 2 and 6 in your notes dated 4-1-05.

In regards to Item 5:

We still feel strongly that it is important and necessary to amend s. 23.50(1) to include a reference to s. 943.13, which will allow DNR wardens to use our normal Natural Resources Citation Form for citing persons who violate the land trespass laws. We do not want to have to issue and carry a new set of citation forms or have 2 sets of procedures for our wardens to follow in these forfeiture actions. We have made an additional clarification that this amendment read as follows: and 943.13 when enforced pursuant to s. 29.921(4m).

In regards to Item 3:

The language in section 18 for s. 943.13(3m) does not appear to accomplish the goal of having both a permissive and a mandatory revocation requirement. Although the 1st sentence uses the word "may", the last sentence appears to make the revocation of all future licenses or approvals mandatory for all convictions. The desire of Rep. Pettis and the DNR is that the 3 year revocation be an option for the court on all s. 943.13 violations that occur while engaged in an activity regulated under ch. 23, 26, 27, 28, 29, 169, or 350.

In addition, there is to be a mandatory 5 year revocation for violations of this section if the person:

1. engaged in an activity regulated under ch. 23, 26, 27, 28, 29, 169, or 350, and
2. also is convicted of a crime committed while in violating s. 943.13.

In regards to Item 4:

For years we have had concerns that the legal title of wild animals and their carcasses did not clearly remain with the state when taken in violation of all other state laws (besides ch. 29). We still feel this needs to be clarified with the amendment to s. 29.011(2). We do not feel this is a similar issue with ch. 169 which deals with keeping live captive wild animals. We feel the authority provided in ch. 169 is adequate.

Attached is a document with our proposed changes to LRB 2506/2dn. I have to run to meeting, but will give you a call later so we can discuss if you have any questions.

Thanks for all your work on this.



Missing Trespass Bill
Amendmen...

*OK from Pettis office
to draft*

The department recommends amending **LRB 2506/2** as follows:

- 1. Need to amend s. 23.50(1) to allow DNR wardens to use the Natural Resources Citation form for enforcement of violations of s. 943.13 (Trespass) and follow the same procedures as other Natural Resources forfeitures in accordance with s. 778.104.**

SECTION ?. 23.50 (1) of the statutes is amended to read:

23.50(1) The procedure in ss. 23.50 to 23.85 applies to all actions in circuit court to recover forfeitures, plus costs, fees, and surcharges imposed under ch. 814, for violations of ss. 77.09, 90.21, 134.60, 167.10 (3), 167.31 (2), 281.48 (2) to (5), 283.33, 285.57 (2), 285.59 (2), (3) (c) and (4), 287.07, 287.08, 287.81, ~~and~~ 299.64 (2) and 943.13 when enforced pursuant to s. 29.921(4m), subch. VI of ch. 77, this chapter, and chs. 26 to 31, ch. 169, and ch. 350, and any administrative rules promulgated thereunder, violations specified under s. 285.86, violations of ch. 951 if the animal involved is a captive wild animal, violations of rules of the Kickapoo reserve management board under s. 41.41 (7) (k), violations to which s. 299.85 (7) (a) 2. or 4. applies, or violations of local ordinances enacted by any local authority in accordance with s. 23.33 (11) (am) or 30.77.

- 2. Need to amend s. 29.11(2) to clarify that the legal title of all wild animals taken in violation of all state laws (incl. Trespass), remains with the state. Not interested in amending provision in s. 169.02 which deals with captive wild animals.**

SECTION ? . 29.011(2) of the statutes is amended to read:

29.011(2) The legal title to a wild animal or carcass, taken or reduced to possession in violation of this chapter the laws of this state, remains in the state. The title to a wild animal or carcass, lawfully acquired, is subject to the condition that upon the violation of this chapter relating to the possession, use, giving, sale, barter or transportation of a wild animal or carcass by the owner, the ownership shall revert, as a result of the violation, to the state.

3. **The last sentence in this paragraph makes revocation mandatory for all convictions. The desire of Rep. Pettis and the DNR is that the 3 year revocation be an option for the court on all s. 943.13 violations that occur while engaged in an activity regulated under ch. 23, 26, 27, 28, 29, 169, or 350.**

In addition, there is to be a mandatory revocation for violation of this section if the person:

1. engaged in an activity regulated under ch. 23, 26, 27, 28, 29, 169, or 350, and
2. also is convicted of a crime committed while in violating s. 943.13.

SECTION 18. 943.13 (3m) of the statutes is created to read:

943.13 **(3m)** If a person is convicted of a violation of this section while engaged in an activity regulated under ch. 23, 26, 27, 28, 29, 169, or 350, the court may revoke or suspend any or all hunting, fishing, and trapping privileges and approvals issued granted to the person under ch. 29 and any or all licenses issued to the person that authorize hunting or trapping under ch. 169. ~~The person convicted also may not be issued any approvals or licenses issued under ch. 29 or 169 for a period of up to three years. after the conviction.~~ If a person is convicted of a violation of this section while engaged in an activity regulated under ch. 23, 26, 27, 28, 29, 169, or 350 and the person has also been convicted of a crime while engaged in such activity, the court shall revoke all privileges and approvals granted to the person under ch. 29 and any or all licenses issued to the person that authorize hunting or trapping under ch. 169 and shall prohibit the issuance of any new approvals under ch. 29 and any licenses that authorize hunting or trapping issued under ch. 169 to the person for five years.



State of Wisconsin
2005 - 2006 LEGISLATURE

LRB-2506/2

MGG:wlj:ch

3RKR

Today

2005 BILL

certain approvals and privileges
relating to wild animals and
plants

Regen

1 AN ACT *to amend* 23.33 (3) (c), 23.62 (2), 29.921 (5), 29.924 (1), 29.924 (2), 29.924
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3 and 350.10 (1) (f); and *to create* 23.86, 29.921 (4m), 814.75 (17m), 814.80 (13m)
4 and 943.13 (3m) of the statutes; **relating to:** the authority of the Department
5 of Natural Resources to enforce certain violations of the trespass law;
6 ~~and suspension, and denial of~~ revocation of hunting, fishing, and trapping approvals and captive wildlife
7 licenses for certain violations of the trespass law, the imposition of a surcharge
8 on a forfeiture for certain violations of the trespass law, service outside the state
9 of forfeiture citations issued for violations of certain natural resources laws;
10 *title to wild animals* operation of snowmobiles and all-terrain vehicles on land without permission;
11 and providing a penalty.

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BILL

laws are committed. This bill expands this authority to cover violations of the land trespass law when the trespass is committed by a person engaged in an activity that involves hunting, fishing, trapping, cutting timber, snowmobiling, and other outdoor recreational or natural resources activities regulated by laws administered by DNR (natural resources activities). The bill authorizes the court to revoke any or all fish and game licenses or approvals or licenses authorizing the possession of captive wildlife for a period of three years.

The bill requires a court to impose a surcharge for a trespass violation that is committed by a person engaged in ^{ies} a natural resource activity. The surcharge imposed equals 35 percent of the amount of the forfeiture for the trespass violation. Under the bill, the surcharge is used for certain DNR enforcement activities.

The bill expands the prohibition under the laws regulating the operation of all-terrain vehicles and snowmobiles on land without the consent of the owner or lessee to include all land, not just private land.

Finally, the bill allows the service by mail of citations to persons outside the state for violations of certain natural resources laws.

For further information see the **state and local** fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 23.33 (3) (c) of the statutes is amended to read:

23.33 (3) (c) On the private property of another without the consent of the owner or lessee. Failure to post private such property does not imply consent for all-terrain vehicle use.

SECTION 2. 23.62 (2) of the statutes is amended to read:

23.62 (2) A citation may be issued or served anywhere in the state by delivering a copy to the defendant personally or it shall be served by leaving a copy at the defendant's usual place of abode with a person of discretion residing therein or by mailing a copy to the defendant's last-known address. A citation may be issued or served outside the state by mailing a copy to the defendant's last-known address. It shall be issued or served by a law enforcement officer.

SECTION 3. 23.86 of the statutes is created to read:

~~SECTION 1.~~ CR; 23.51 (5r)

CR; 23.51 (5r) Natural resources trespass surcharge under 5.23.86.

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1 **23.86 Natural resources trespass surcharge. (1) LEVY OF NATURAL**
2 RESOURCES TRESPASS SURCHARGE. (a) If a court imposes a forfeiture for a violation of
3 s. 943.13 that a person commits while engaged in an activity regulated under this
4 chapter or ch. 26, 27, 28, 29, 169, or 350, the court shall impose a natural resources
5 trespass surcharge under ch. 814 equal to 35 percent of the amount of the forfeiture.

6 (b) If a forfeiture is suspended in whole or in part, the natural resources
7 trespass surcharge shall be reduced in proportion to the suspension.

8 (c) If any deposit is made for an offense to which this section applies, the person
9 making the deposit shall also deposit a sufficient amount to include the natural
10 resources trespass surcharge under this section. If the deposit is forfeited, the
11 amount of the natural resources trespass surcharge shall be transmitted to the
12 secretary of administration under par. (d). If the deposit is returned, the natural
13 resources trespass surcharge shall also be returned.

14 (d) The clerk of the court shall collect and transmit to the county treasurer the
15 natural resources trespass surcharge and other amounts required under s. 59.40 (2)
16 (m). The county treasurer shall then make payment to the secretary of
17 administration as provided in s. 59.25 (3) (f) 2. The secretary of administration shall
18 deposit the amount of the natural resources trespass surcharge into the conservation
19 fund.

20 **(2) USE OF NATURAL RESOURCES TRESPASS SURCHARGE FUNDS.** All moneys collected
21 from natural resources trespass surcharges shall be credited to the appropriation
22 under s. 20.370 (3) (mu).

23 **SECTION 4.** 29.921 (4m) of the statutes is created to read:

24 **29.921 (4m) TRESPASS.** The department and its wardens may execute and serve
25 warrants and processes issued for a violation of s. 943.13, if the violation was done

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BILL**SECTION 4**

1 while the person was engaged in an activity regulated under this chapter or ch. 23,
2 26, 27, 28, 169, or 350, in the same manner as any constable may serve and execute
3 the process; and may arrest, with or without a warrant, any person detected in the
4 actual violation, or whom the warden has probable cause to believe is guilty of such
5 a violation, and may take the person before any court in the county where the
6 violation was committed and make a proper complaint. For the purpose of enforcing
7 any of the laws of this state, any warden may stop and board any boat and stop any
8 vehicle, if the warden reasonably suspects there is a violation of the law.

9 **SECTION 5.** 29.921 (5) of the statutes is amended to read:

10 29.921 (5) ADDITIONAL ARREST POWERS. In addition to the arrest powers under
11 ~~sub.~~ subs. (1) and (4m), a warden who has completed a program of law enforcement
12 training approved by the law enforcement standards board, has been certified as
13 qualified to be a law enforcement officer under s. 165.85 (4) (b) 1. and has complied
14 with any applicable requirements under s. 165.85 (4) (bn) 1. while on duty and in
15 uniform or on duty and upon display of proper credentials may assist another law
16 enforcement agency as defined under s. 165.83 (1) (b) including making an arrest at
17 the request of the agency, may arrest a person pursuant to an arrest warrant
18 concerning the commission of a felony or may arrest a person who has committed a
19 crime in the presence of the warden. If the warden makes an arrest without the
20 presence of another law enforcement agency, the warden shall cause the person
21 arrested to be delivered to the chief of police or sheriff in the jurisdiction where the
22 arrest is made, along with the documents and reports pertaining to the arrest. The
23 warden shall be available as a witness for the state. A warden may not conduct
24 investigations for violations of state law except as authorized in ss. 23.11 (4), 29.924
25 (1) and 41.41 (12). A warden acting under the authority of this subsection is

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1 considered an employee of the department and is subject to its direction, benefits and
2 legal protection. The authority granted in this section does not apply to county
3 conservation wardens or special conservation wardens.

4 **SECTION 6.** 29.924 (1) of the statutes is amended to read:

5 29.924 (1) INVESTIGATIONS. ~~The department and its wardens shall, upon~~ Upon
6 receiving notice or information of the violation of any of the laws cited ins. for which
7 the department and its wardens have enforcement authority under s. 29.921 (1), to
8 (4m), the department and its wardens shall as soon as possible make a thorough
9 investigation and institute proceedings if the evidence warrants it.

10 **SECTION 7.** 29.924 (2) of the statutes is amended to read:

11 29.924 (2) DRIVING WITHOUT HEADLIGHTS. In the performance of their law
12 enforcement duties, wardens may operate motor vehicles owned or leased by the
13 department upon a highway, other than an interstate, a state trunk highway or any
14 highway within the limits of any incorporated area, during hours of darkness
15 without lighted headlamps, tail lamps or clearance lamps, contrary to s. 347.06, if
16 the driving will aid in the accomplishment of a lawful arrest for violation of this
17 chapter any of the laws for which the department and its wardens have enforcement
18 authority under s. 29.921 (1) to (4m) or in ascertaining whether a violation of this
19 chapter these laws has been or is about to be committed. Any civil action or
20 proceeding brought against any warden operating a motor vehicle under this
21 subsection is subject to ss. 893.82 and 895.46.

22 **SECTION 8.** 29.924 (3) of the statutes is amended to read:

23 29.924 (3) OPENING PACKAGES. The department and its wardens may examine
24 and open any package in the possession of a common carrier which they have
25 probable cause to believe contains wild animals, or carcasses, in violation of this

BILL**SECTION 8**

1 ~~chapter, or carcasses, of any of the laws for which the department and its wardens~~
2 ~~have enforcement authority under s. 29.921 (1) to (4m),~~ or is falsely labeled in
3 violation of ~~this chapter~~ these laws. Each common carrier and its agent or employee
4 shall permit the officer to examine and open the package. Any opened package shall
5 be restored to its original condition.

6 **SECTION 9.** 29.924 (4) of the statutes is amended to read:

7 29.924 (4) ACCESS TO STORAGE PLACES. The owner or occupant of any
8 cold-storage warehouse or building used for the storage or retention of wild animals,
9 or their carcasses, that are subject to regulation under ~~this chapter~~ any of the laws
10 for which the department and its wardens have enforcement authority under s.
11 29.921 (1) to (4m) shall permit the department and its wardens to enter and examine
12 the premises subject to s. 66.0119. The owner or occupant, or the agent or employee
13 of the owner or occupant, shall deliver to the officer any such wild animal or carcass,
14 in his or her possession during the closed season, whether taken within or without
15 the state

16 **SECTION 10.** 29.931 (1) of the statutes is amended to read:

17 29.931 (1) SEIZURE AND CONFISCATION OF WILD ANIMALS OR PLANTS. The
18 department and its wardens shall seize and confiscate any wild animal, carcass or
19 plant caught, killed, taken, had in possession or under control, sold or transported
20 in violation of ~~this chapter or ch. 169~~ any of the laws for which the department and
21 its wardens have enforcement authority under s. 29.921 (1) to (4m). The officer may,
22 with or without warrant, open, enter and examine all buildings, camps, boats on
23 inland or outlying waters, vehicles, valises, packages and other places where the
24 officer has probable cause to believe that wild animals, carcasses or plants, taken or
25 held in violation of ~~this chapter or ch. 169~~ these laws, are to be found.

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1 **SECTION 11.** 29.931 (2) (a) of the statutes is amended to read:

2 29.931 (2) (a) The department and its wardens shall seize and hold, subject to
3 the order of the court for the county in which the alleged offense was committed, any
4 vehicle, boat or object declared by this chapter to be a public nuisance, or which they
5 have probable cause to believe is being used in violation of ~~this chapter or ch. 169 or~~
6 ~~s. 167.31, 287.81, 940.24, 941.20, 948.60, 948.605 or 948.61, is being used in the~~
7 ~~commission of a crime involving an animal normally found in the wild in violation~~
8 ~~of s. 951.09, or is being used in the commission of a crime relating to a submerged~~
9 ~~cultural resource in violation of s. 44.47~~ any of the laws for which the department and
10 its wardens have enforcement authority under s. 29.921 (1) to (4m). If it is proven
11 that the vehicle, boat or object is a public nuisance or that within 6 months previous
12 to the seizure the vehicle, boat or object was used in violation of ~~this chapter or ch.~~
13 ~~169 or s. 167.31, 287.81, 940.24, 941.20, 948.60, 948.605 or 948.61, was used in the~~
14 ~~commission of a crime involving an animal normally found in the wild in violation~~
15 ~~of s. 951.09, or was used in the commission of a crime relating to a submerged cultural~~
16 ~~resource in violation of s. 44.47~~ any of the laws for which the department and its
17 wardens have enforcement authority under s. 29.921 (1) to (4m), it shall be
18 confiscated if the court directs in its order for judgment.

19 **SECTION 12.** 29.931 (2) (b) of the statutes is amended to read:

20 29.931 (2) (b) Any perishable property seized by the department or its wardens
21 under this section may be sold at the highest available price, and the proceeds of the
22 sale turned into court for disposition as the court directs.

23 **SECTION 13.** 29.934 (1) (a) of the statutes is amended to read:

24 29.934 (1) (a) All wild animals, carcasses ~~or~~, plants, vehicles, boats, or objects
25 that are not destroyed as authorized by law and that are confiscated by the

BILL**SECTION 13**

1 department for a violation of ~~this chapter or ch. 169~~ and all vehicles, boats or objects
2 ~~confiscated by the department for a violation of this chapter or ch. 169~~ shall, if not
3 ~~destroyed as authorized by law,~~ any of the laws for which the department and its
4 wardens have enforcement authority under s. 29.921 (1) to (4m), shall be sold at the
5 highest price obtainable, except as provided in s. 29.936, by the department, or by
6 an agent on commission under supervision of the department. The net proceeds of
7 sales under this subsection, after deducting the expense of seizure and sale and any
8 commissions and any amounts owing to holders of security interests under par. (c)
9 or (d), shall be remitted to the department. The remittance shall be accompanied by
10 a report of the sales, supported by vouchers for expenses and commissions, and shall
11 be filed with the department.

12 **SECTION 14.** 29.934 (2) of the statutes is amended to read:

13 29.934 (2) On any sales under this section of wild animals or carcasses, the
14 department or the agent selling them shall issue to each purchaser a certificate, on
15 forms prepared and furnished by the department, covering the sales. The wild
16 animals or carcasses so purchased shall be consumed, resold, or otherwise disposed
17 of by the purchaser within a period to be set by the department, but may not be resold
18 or exchanged, in whole or in part, to any other person, except as provided in sub. (3)
19 or as authorized by the department.

20 **SECTION 15.** 350.10 (1) (f) of the statutes is amended to read:

21 350.10 (1) (f) On the private property of another without the consent of the
22 owner or lessee. Failure to post private such property does not imply consent for
23 snowmobile use. Any other motor-driven craft or vehicle principally manufactured
24 for off-highway use shall at all times have the consent of the owner before operation
25 of such craft or vehicle on private lands of another.

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SECTION 16. 814.75 (17m) of the statutes is created to read:

814.75 (17m) The natural resources trespass surcharge.

SECTION 17. 814.80 (13m) of the statutes is created to read:

814.80 (13m) The natural resources trespass surcharge.

SECTION 18. 943.13 (3m) of the statutes is created to read:

943.13 (3m) If a person is convicted of a violation of this section while engaged in an activity regulated under ch. 23, 26, 27, 28, 29, 169, or 350, the court may revoke any or all hunting, fishing, and trapping approvals issued to the person under ch. 29 and any or all licenses issued to the person under ch. 169. The person convicted also may not be issued any approvals or licenses issued under ch. 29 or 169 for a period of three years after the conviction.

(END)

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9-11

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SECTION 16. CR; 814.77(10m)

814.77 (10m) The natural resources trespass surcharge under 5023.0860

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For a violation of the trespass law while ~~being~~^{a person is} engaged in natural resource activities, the bill authorizes a court to revoke or suspend for up to three years ~~all~~ hunting, fishing, and trapping licenses issued to the violator and all other approvals and privileges issued to, or enjoyed by, the violator that relate to the wild animals found in the wild and wild plants and that relate to the hunting and trapping of captive wild life. The bill requires a court to revoke all of these licenses, approvals and privileges, and prohibit the issuance of such licenses and approvals, for a period of five years if the violator is convicted of a crime that was committed at the same time as the trespass violation.

Insert 2-14

SECTION 1. 23.50 (1) of the statutes is amended to read:

23.50 (1) The procedure in ss. 23.50 to 23.85 applies to all actions in circuit court to recover forfeitures, plus costs, fees, and surcharges imposed under ch. 814, for violations of ss. 77.09, 90.21, 134.60, 167.10 (3), 167.31 (2), 281.48 (2) to (5), 283.33, 285.57 (2), 285.59 (2), (3) (c) and (4), 287.07, 287.08, 287.81 and 299.64 (2), subch. VI of ch. 77, this chapter, and chs. 26 to 31, ch. 169, and ch. 350, and any administrative rules promulgated thereunder, violations specified under s. 285.86, violations of s. 943.13 pursuant to s. 29.921 (4m), violations of ch. 951 if the animal involved is a captive wild animal, violations of rules of the Kickapoo reserve management board under s. 41.41 (7) (k), violations to which s. 299.85 (7) (a) 2. or 4. applies, or violations of local ordinances enacted by any local authority in accordance with s. 23.33 (11) (am) or 30.77.

History: 1975 c. 365; 1977 c. 29, 305; 1977 c. 449 ss. 44, 497; 1979 c. 32 s. 92 (17); 1979 c. 34 ss. 703b, 2102 (39) (f); 1981 c. 390; 1985 a. 36; 1987 a. 27; 1987 a. 200 s. 4; 1989 a. 79, 284, 335, 359; 1991 a. 39, 97; 1993 a. 16, 243, 344, 349, 491; 1995 a. 27, 216, 227, 290; 1997 a. 35; 1999 a. 9; 2001 a. 56; 2003 a. 139, 276.

Insert 2-11

SECTION 2. 23.65 (1) of the statutes is amended to read:

23.65 (1) When it appears to the district attorney that a violation of s. 90.21, 134.60, 281.48 (2) to (5), 283.33, 285.57 (2), 285.59 (2), (3) (c) and (4), 287.07, 287.08,

287.81 or 299.64 (2), this chapter or ch. 26, 27, 28, 29, 30, 31, 169, or 350, or any administrative rule promulgated pursuant thereto, a violation specified under s. 285.86, violations of s. 943.13 pursuant to s. 29.921 (4m), or a violation of ch. 951, if the animal involved is a captive wild animal, has been committed the district attorney may proceed by complaint and summons.

History: 1975 c. 365; 1979 c. 175; 1981 c. 390; 1989 a. 284, 335, 359; 1991 a. 97; 1993 a. 16, 243, 344, 491; 1995 a. 227, 290; 1997 a. 35; 1999 a. 9; 2001 a. 56.

Insert 3-22

SECTION 3. 29.011 (2) of the statutes is amended to read:

29.011 (2) The legal title to a wild animal or carcass, taken or reduced to possession in violation of this chapter, remains in the state. The title to a wild animal or carcass, lawfully acquired, is subject to the condition that upon the violation of ~~this chapter~~ the laws of this state relating to the possession, use, giving, sale, barter or transportation of a wild animal or carcass by the owner, the ownership shall revert, as a result of the violation, to the state.

History: 1997 a. 248 s. 87; 2001 a. 56.

Insert 9-11

SECTION 4. 943.13 (3g) of the statutes is created to read:

943.13 (3g) (a) The department *of natural resources* may follow the procedures for the issuance of a citation under ss. 23.50 to 23.99 to collect a forfeiture for a violation of this section pursuant to s. 29.921 (4m).

(b) If a person is convicted of a violation of this section while engaged in an activity regulated under ch. 23, 26, 27, 28, 29, 169, or 350, the court may revoke or suspend any or all approvals and privileges granted to the person under ch. 29, and may revoke or suspend any or all licenses and privileges granted to the person under ch. 169 that relate to hunting or trapping, for a period of not more than 3 years from the date of conviction.

(c) If a person is convicted of a violation of this section while engaged in an activity regulated under ch. 23, 26, 27, 28, 29, 169, or 350 and the person ^galso has been convicted of a crime ^gfrom while engaged in such activity arising from ^gthe same incident or occurrence, ^gthe court shall do all of the following:

1. Revoke ^gall approvals and privileges granted to the person under ch. 29 and revoke all licenses ^gand privileges granted to the person ^gunder ch. 169 that relate to hunting or trapping.

2. Prohibit the issuance to the person of any approvals under ch. 29, and the issuance to the person ^gof any licenses under ch. 169 that relate to hunting or trapping, for a period of 5 years from the date of conviction.

Gibson-Glass, Mary

From: Van Haren, Thomas
Sent: Thursday, April 21, 2005 3:13 PM
To: Gibson-Glass, Mary
Subject: RE: LRB - 2506/3 - Warden Trespass Authority

Hi Mary,


I received a copy of the LRB - 2506/3 from Rep. Pettis. I have already talked to Rep. Pettis and advised him of this.

I did notice 2 words that you may want to look at for the final bill.

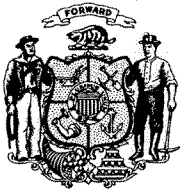
*don't
do* On page 5, line 18 the word "and" is used between subs.(1) and (4m). Everywhere else in this bill draft the word "to" is used between these 2 subs. Should the word "to" be used in this location to be consistent with the rest of the references to those section?

On page 7, the word "of " is used twice in a row. Once at the end of line 7, and again as the first word in line 8.

Thanks for all your work on this bill.

 Thomas H. Van Haren

Conservation Warden / NR Policy Officer
Bureau of Law Enforcement
Wisconsin Department of Natural Resources
(☎) phone: (608) 266-3244



State of Wisconsin
2005 - 2006 LEGISLATURE

4 RMR
LRB-2506/8

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2005 BILL

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Regen

1 AN ACT *to amend* 23.33 (3) (c), 23.50 (1), 23.62 (2), 23.65 (1), 29.011 (2), 29.921
2 (5), 29.924 (1), 29.924 (2), 29.924 (3), 29.924 (4), 29.931 (1), 29.931 (2) (a), 29.931
3 (2) (b), 29.934 (1) (a), 29.934 (2) and 350.10 (1) (f); and *to create* 23.86, 29.921
4 (4m), 814.75 (17m), 814.77 (10m), 814.80 (13m) and 943.13 (3g) of the statutes;
5 **relating to:** the authority of the Department of Natural Resources to enforce
6 certain violations of the trespass law; revocation, suspension, and denial of
7 certain approvals and privileges relating to wild animals and plants for certain
8 violations of the trespass law; the imposition of a surcharge on a forfeiture for
9 certain violations of the trespass law; service outside the state of forfeiture
10 citations issued for violations of certain natural resources laws; title to wild
11 animals; operation of snowmobiles and all-terrain vehicles on land without
12 permission; and providing a penalty.

Analysis by the Legislative Reference Bureau

Current law grants the Department of Natural Resources (DNR) and its wardens enforcement authority to enforce fish and game laws, laws relating to

BILL

boating and snowmobiling, other conservation laws, and certain other laws relating to the use of dangerous weapons regardless of where the violations of any of these laws are committed. This bill expands this authority to cover violations of the land trespass law when the trespass is committed by a person engaged in an activity that involves hunting, fishing, trapping, cutting timber, snowmobiling, and other outdoor recreational or natural resources activities regulated by laws administered by DNR (natural resources activities).

For a violation of the trespass law while a person is engaged in natural resource activities, the bill authorizes a court to revoke or suspend for up to three years all hunting, fishing, and trapping licenses issued to the violator and all other approvals issued to, and privileges enjoyed by, the violator that relate to the wild animals found in the wild and wild plants and that relate to the hunting and trapping of captive wildlife. The bill requires a court to revoke all of these licenses, approvals and privileges, and prohibit the issuance of such licenses and approvals, for a period of five years if the violator is convicted of a crime that was committed at the same time as the trespass violation.

The bill requires a court to impose a surcharge for a trespass violation that is committed by a person engaged in natural resource activities. The surcharge imposed equals 35 percent of the amount of the forfeiture for the trespass violation. Under the bill, the surcharge is used for certain DNR enforcement activities.

The bill expands the prohibition under the laws regulating the operation of all-terrain vehicles and snowmobiles on land without the consent of the owner or lessee to include all land, not just private land.

Finally, the bill allows the service by mail of citations to persons outside the state for violations of certain natural resources laws.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 23.33 (3) (c) of the statutes is amended to read:

2 23.33 (3) (c) On the private property of another without the consent of the
3 owner or lessee. Failure to post ~~private~~ such property does not imply consent for
4 all-terrain vehicle use.

5 **SECTION 2.** 23.50 (1) of the statutes is amended to read:

6 23.50 (1) The procedure in ss. 23.50 to 23.85 applies to all actions in circuit
7 court to recover forfeitures, plus costs, fees, and surcharges imposed under ch. 814,

BILL

1 for violations of ss. 77.09, 90.21, 134.60, 167.10 (3), 167.31 (2), 281.48 (2) to (5),
2 283.33, 285.57 (2), 285.59 (2), (3) (c), and (4), 287.07, 287.08, 287.81, and 299.64 (2),
3 subch. VI of ch. 77, this chapter, and chs. 26 to 31, ch. 169, and ch. 350, and any
4 administrative rules promulgated thereunder, violations specified under s. 285.86,
5 violations of s. 943.13 pursuant to s. 29.921 (4m), violations of ch. 951 if the animal
6 involved is a captive wild animal, violations of rules of the Kickapoo reserve
7 management board under s. 41.41 (7) (k), violations to which s. 299.85 (7) (a) 2. or
8 4. applies, or violations of local ordinances enacted by any local authority in
9 accordance with s. 23.33 (11) (am) or 30.77.

10 **SECTION 3.** 23.62 (2) of the statutes is amended to read:

11 23.62 (2) A citation may be issued or served anywhere in the state by delivering
12 a copy to the defendant personally or it shall be served by leaving a copy at the
13 defendant's usual place of abode with a person of discretion residing therein or by
14 mailing a copy to the defendant's last-known address. A citation may be issued or
15 served outside the state by mailing a copy to the defendant's last-known address.

16 It shall be issued or served by a law enforcement officer.

17 **SECTION 4.** 23.65 (1) of the statutes is amended to read:

18 23.65 (1) When it appears to the district attorney that a violation of s. 90.21,
19 134.60, 281.48 (2) to (5), 283.33, 285.57 (2), 285.59 (2), (3) (c), and (4), 287.07, 287.08,
20 287.81, or 299.64 (2), this chapter or ch. 26, 27, 28, 29, 30, 31, 169, or 350, or any
21 administrative rule promulgated pursuant thereto, a violation specified under s.
22 285.86, violations of s. 943.13 pursuant to s. 29.921 (4m), or a violation of ch. 951, if
23 the animal involved is a captive wild animal, has been committed the district
24 attorney may proceed by complaint and summons.

25 **SECTION 5.** 23.86 of the statutes is created to read:

BILL**SECTION 5**

1 **23.86 Natural resources trespass surcharge. (1) LEVY OF NATURAL**
2 RESOURCES TRESPASS SURCHARGE. (a) If a court imposes a forfeiture for a violation of
3 s. 943.13 that a person commits while engaged in an activity regulated under this
4 chapter or ch. 26, 27, 28, 29, 169, or 350, the court shall impose a natural resources
5 trespass surcharge under ch. 814 equal to 35 percent of the amount of the forfeiture.

6 (b) If a forfeiture is suspended in whole or in part, the natural resources
7 trespass surcharge shall be reduced in proportion to the suspension.

8 (c) If any deposit is made for an offense to which this section applies, the person
9 making the deposit shall also deposit a sufficient amount to include the natural
10 resources trespass surcharge under this section. If the deposit is forfeited, the
11 amount of the natural resources trespass surcharge shall be transmitted to the
12 secretary of administration under par. (d). If the deposit is returned, the natural
13 resources trespass surcharge shall also be returned.

14 (d) The clerk of the court shall collect and transmit to the county treasurer the
15 natural resources trespass surcharge and other amounts required under s. 59.40 (2)
16 (m). The county treasurer shall then make payment to the secretary of
17 administration as provided in s. 59.25 (3) (f) 2. The secretary of administration shall
18 deposit the amount of the natural resources trespass surcharge into the conservation
19 fund.

20 **(2) USE OF NATURAL RESOURCES TRESPASS SURCHARGE FUNDS.** All moneys collected
21 from natural resources trespass surcharges shall be credited to the appropriation
22 under s. 20.370 (3) (mu).

23 **SECTION 6.** 29.011 (2) of the statutes is amended to read:

24 29.011 (2) The legal title to a wild animal or carcass, taken or reduced to
25 possession in violation of this chapter, remains in the state. The title to a wild animal

BILL

1 or carcass, lawfully acquired, is subject to the condition that upon the violation of ~~this~~
2 chapter the laws of this state relating to the possession, use, giving, sale, barter or
3 transportation of a wild animal or carcass by the owner, the ownership shall revert,
4 as a result of the violation, to the state.

5 **SECTION 7.** 29.921 (4m) of the statutes is created to read:

6 **29.921 (4m) TRESPASS.** The department and its wardens may execute and serve
7 warrants and processes issued for a violation of s. 943.13, if the violation was done
8 while the person was engaged in an activity regulated under this chapter or ch. 23,
9 26, 27, 28, 169, or 350, in the same manner as any constable may serve and execute
10 the process; and may arrest, with or without a warrant, any person detected in the
11 actual violation, or whom the warden has probable cause to believe is guilty of such
12 a violation, and may take the person before any court in the county where the
13 violation was committed and make a proper complaint. For the purpose of enforcing
14 any of the laws of this state, any warden may stop and board any boat and stop any
15 vehicle, if the warden reasonably suspects there is a violation of the law.

16 **SECTION 8.** 29.921 (5) of the statutes is amended to read:

17 **29.921 (5) ADDITIONAL ARREST POWERS.** In addition to the arrest powers under
18 ~~sub-~~ subs. (1) and (4m), a warden who has completed a program of law enforcement
19 training approved by the law enforcement standards board, has been certified as
20 qualified to be a law enforcement officer under s. 165.85 (4) (b) 1. and has complied
21 with any applicable requirements under s. 165.85 (4) (bn) 1. while on duty and in
22 uniform or on duty and upon display of proper credentials may assist another law
23 enforcement agency as defined under s. 165.83 (1) (b) including making an arrest at
24 the request of the agency, may arrest a person pursuant to an arrest warrant
25 concerning the commission of a felony or may arrest a person who has committed a

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1 crime in the presence of the warden. If the warden makes an arrest without the
2 presence of another law enforcement agency, the warden shall cause the person
3 arrested to be delivered to the chief of police or sheriff in the jurisdiction where the
4 arrest is made, along with the documents and reports pertaining to the arrest. The
5 warden shall be available as a witness for the state. A warden may not conduct
6 investigations for violations of state law except as authorized in ss. 23.11 (4), 29.924
7 (1) and 41.41 (12). A warden acting under the authority of this subsection is
8 considered an employee of the department and is subject to its direction, benefits and
9 legal protection. The authority granted in this section does not apply to county
10 conservation wardens or special conservation wardens.

11 **SECTION 9.** 29.924 (1) of the statutes is amended to read:

12 29.924 (1) INVESTIGATIONS. ~~The department and its wardens shall, upon~~ Upon
13 receiving notice or information of the violation of any of the laws cited ins. for which
14 the department and its wardens have enforcement authority under s. 29.921 (1), to
15 (4m), the department and its wardens shall as soon as possible make a thorough
16 investigation and institute proceedings if the evidence warrants it.

17 **SECTION 10.** 29.924 (2) of the statutes is amended to read:

18 29.924 (2) DRIVING WITHOUT HEADLIGHTS. In the performance of their law
19 enforcement duties, wardens may operate motor vehicles owned or leased by the
20 department upon a highway, other than an interstate, a state trunk highway or any
21 highway within the limits of any incorporated area, during hours of darkness
22 without lighted headlamps, tail lamps or clearance lamps, contrary to s. 347.06, if
23 the driving will aid in the accomplishment of a lawful arrest for violation of ~~this~~
24 chapter any of the laws for which the department and its wardens have enforcement
25 authority under s. 29.921 (1) to (4m) or in ascertaining whether a violation of this

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chapter these laws has been or is about to be committed. Any civil action or proceeding brought against any warden operating a motor vehicle under this subsection is subject to ss. 893.82 and 895.46.

SECTION 11. 29.924 (3) of the statutes is amended to read:

29.924 (3) OPENING PACKAGES. The department and its wardens may examine and open any package in the possession of a common carrier which they have probable cause to believe contains wild animals, or carcasses, in violation of ~~this chapter, or carcasses,~~ of any of the laws for which the department and its wardens have enforcement authority under s. 29.921 (1) to (4m), or is falsely labeled in violation of ~~this chapter these laws~~. Each common carrier and its agent or employee shall permit the officer to examine and open the package. Any opened package shall be restored to its original condition.

SECTION 12. 29.924 (4) of the statutes is amended to read:

29.924 (4) ACCESS TO STORAGE PLACES. The owner or occupant of any cold-storage warehouse or building used for the storage or retention of wild animals, or their carcasses, that are subject to regulation under ~~this chapter~~ any of the laws for which the department and its wardens have enforcement authority under s. 29.921 (1) to (4m) shall permit the department and its wardens to enter and examine the premises subject to s. 66.0119. The owner or occupant, or the agent or employee of the owner or occupant, shall deliver to the officer any such wild animal or carcass, in his or her possession during the closed season, whether taken within or without the state

SECTION 13. 29.931 (1) of the statutes is amended to read:

29.931 (1) SEIZURE AND CONFISCATION OF WILD ANIMALS OR PLANTS. The department and its wardens shall seize and confiscate any wild animal, carcass or

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1 plant caught, killed, taken, had in possession or under control, sold or transported
2 in violation of ~~this chapter or ch. 169~~ any of the laws for which the department and
3 its wardens have enforcement authority under s. 29.921 (1) to (4m). The officer may,
4 with or without warrant, open, enter and examine all buildings, camps, boats on
5 inland or outlying waters, vehicles, valises, packages and other places where the
6 officer has probable cause to believe that wild animals, carcasses or plants, taken or
7 held in violation of ~~this chapter or ch. 169~~ these laws, are to be found.

8 **SECTION 14.** 29.931 (2) (a) of the statutes is amended to read:

9 29.931 (2) (a) The department and its wardens shall seize and hold, subject to
10 the order of the court for the county in which the alleged offense was committed, any
11 vehicle, boat or object declared by this chapter to be a public nuisance, or which they
12 have probable cause to believe is being used in violation of ~~this chapter or ch. 169 or~~
13 ~~s. 167.31, 287.81, 940.24, 941.20, 948.60, 948.605 or 948.61, is being used in the~~
14 ~~commission of a crime involving an animal normally found in the wild in violation~~
15 ~~of s. 951.09, or is being used in the commission of a crime relating to a submerged~~
16 ~~cultural resource in violation of s. 44.47~~ any of the laws for which the department and
17 its wardens have enforcement authority under s. 29.921 (1) to (4m). If it is proven
18 that the vehicle, boat or object is a public nuisance or that within 6 months previous
19 to the seizure the vehicle, boat or object was used in violation of ~~this chapter or ch.~~
20 ~~169 or s. 167.31, 287.81, 940.24, 941.20, 948.60, 948.605 or 948.61, was used in the~~
21 ~~commission of a crime involving an animal normally found in the wild in violation~~
22 ~~of s. 951.09, or was used in the commission of a crime relating to a submerged cultural~~
23 ~~resource in violation of s. 44.47~~ any of the laws for which the department and its
24 wardens have enforcement authority under s. 29.921 (1) to (4m), it shall be
25 confiscated if the court directs in its order for judgment.

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1 **SECTION 15.** 29.931 (2) (b) of the statutes is amended to read:

2 29.931 (2) (b) Any perishable property seized by the department or its wardens
3 under this section may be sold at the highest available price, and the proceeds of the
4 sale turned into court for disposition as the court directs.

5 **SECTION 16.** 29.934 (1) (a) of the statutes is amended to read:

6 29.934 (1) (a) All wild animals, carcasses ~~or~~, plants, vehicles, boats, or objects
7 that are not destroyed as authorized by law and that are confiscated by the
8 department for a violation of ~~this chapter or ch. 169 and all vehicles, boats or objects~~
9 ~~confiscated by the department for a violation of this chapter or ch. 169 shall, if not~~
10 ~~destroyed as authorized by law, any of the laws for which the department and its~~
11 wardens have enforcement authority under s. 29.921 (1) to (4m), shall be sold at the
12 highest price obtainable, except as provided in s. 29.936, by the department, or by
13 an agent on commission under supervision of the department. The net proceeds of
14 sales under this subsection, after deducting the expense of seizure and sale and any
15 commissions and any amounts owing to holders of security interests under par. (c)
16 or (d), shall be remitted to the department. The remittance shall be accompanied by
17 a report of the sales, supported by vouchers for expenses and commissions, and shall
18 be filed with the department.

19 **SECTION 17.** 29.934 (2) of the statutes is amended to read:

20 29.934 (2) On any sales under this section of wild animals or carcasses, the
21 department or the agent selling them shall issue to each purchaser a certificate, on
22 forms prepared and furnished by the department, covering the sales. The wild
23 animals or carcasses so purchased shall be consumed, resold, or otherwise disposed
24 of by the purchaser within a period to be set by the department, but may not be resold

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1 or exchanged, in whole or in part, to any other person, except as provided in sub. (3)
2 or as authorized by the department.

3 **SECTION 18.** 350.10 (1) (f) of the statutes is amended to read:

4 350.10 (1) (f) On the ~~private~~ property of another without the consent of the
5 owner or lessee. Failure to post ~~private~~ such property does not imply consent for
6 snowmobile use. Any other motor-driven craft or vehicle principally manufactured
7 for off-highway use shall at all times have the consent of the owner before operation
8 of such craft or vehicle on ~~private~~ lands of another.

9 **SECTION 19.** 814.75 (17m) of the statutes is created to read:

10 814.75 (17m) The natural resources trespass surcharge.

11 **SECTION 20.** 814.77 (10m) of the statutes is created to read:

12 814.77 (10m) The natural resources trespass surcharge under s. 23.86.

13 **SECTION 21.** 814.80 (13m) of the statutes is created to read:

14 814.80 (13m) The natural resources trespass surcharge.

15 **SECTION 22.** 943.13 (3g) of the statutes is created to read:

16 943.13 (3g) (a) The department of natural resources may follow the procedures
17 for the issuance of a citation under ss. 23.50 to 23.99 to collect a forfeiture for a
18 violation of this section pursuant to s. 29.921 (4m).

19 (b) If a person is convicted of a violation of this section while engaged in an
20 activity regulated under ch. 23, 26, 27, 28, 29, 169, or 350, the court may revoke or
21 suspend any or all approvals and privileges granted to the person under ch. 29, and
22 may revoke or suspend any or all licenses and privileges granted to the person under
23 ch. 169 that relate to hunting or trapping, for a period of not more than 3 years from
24 the date of conviction.

(END)

Barman, Mike

From: Pettis, Mark
Sent: Friday, April 22, 2005 3:13 PM
To: LRB.Legal
Subject: Draft review: LRB 05-2506/4 Topic: DNR enforcement of trespass violations and other enforcement authority

It has been requested by <Pettis, Mark> that the following draft be jacketed for the ASSEMBLY:

Draft review: LRB 05-2506/4 Topic: DNR enforcement of trespass violations and other enforcement authority